



UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re)	Case No. 07-22484-C-7
)	
BRIAN GOTHARD,)	MC No. MEA-3
)	
Debtor.)	
_____)	

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
ON MOTION FOR RELIEF FROM AUTOMATIC STAY NOT INTENDED FOR
PUBLICATION**

These findings of fact and conclusions of law, which are not intended for publication, are rendered in this contested matter pursuant to Federal Rule of Civil Procedure 52 as incorporated by Federal Rules of Bankruptcy Procedure 7052 and 9014.

Jurisdiction

Jurisdiction is founded upon 28 U.S.C. § 1334. This is a core proceeding. 28 U.S.C. § 157(b)(2)(G).

Findings of Fact

Debtor filed his voluntary chapter 7 petition on April 9, 2007. He scheduled real property commonly known as 3536 Del

1 Sol Way, Sacramento, CA 95834 ("property") as property of the
2 estate. The first meeting of creditors was held on May 18,
3 2007. The chapter 7 trustee filed a report finding that there
4 is no property available for distribution from the estate over
5 and above that exempted by the debtor. Debtor was discharged
6 from all dischargeable debts on July 26, 2007.

7 On June 22, 2007, Countrywide Home Loans, Inc.
8 ("movant") filed a motion, notice, and declaration requesting
9 that this court vacate the automatic stay to permit movant to
10 foreclose upon the property. The fair market value of the
11 property is approximately \$275,000. Movant has a lien on the
12 property in the approximate amount of \$269,958.42. There are
13 other liens against the property in the approximate amount of
14 \$55,293.42.

15 No opposition to the motion was filed within the time
16 prescribed by Local Bankruptcy Rule 9014-1(f)(1). The parties
17 have consented to taking evidence by affidavit and have not
18 demonstrated that there is any disputed material factual issue
19 that would warrant an evidentiary hearing. See L. Bankr. R.
20 9014-1(f)(1). The evidentiary record is closed. Id.

21 Upon review of the record, the court determined that
22 the written record was adequate and that no oral argument is
23 necessary.

24 25 Conclusions of Law

26 The automatic stay of acts against debtor in personam
27 expires when the debtor is granted a discharge. 11 U.S.C.
28 § 362(c)(2)(C). Acts against property of the estate remain

1 stayed until the earliest of the time when the bankruptcy case
2 is closed, dismissed, or the property ceases to be property of
3 the estate. 11 U.S.C. § 362(c). The automatic stay may be
4 terminated earlier if debtor fails to protect the secured
5 party's interest adequately, § 362(d)(1), and, with respect to
6 a stay of an act against property, debtor does not have equity
7 in the property, § 362(d)(2)(A), and the property is not
8 necessary to an effective reorganization. 11 U.S.C. §
9 362(d)(2)(B). The issue of whether the property is necessary
10 to an effective reorganization is not considered in a chapter 7
11 case because no reorganization is contemplated in a chapter 7
12 case.

13 Although the debtor does not appear to have any equity
14 in the property, since the debtor was granted a discharge, the
15 automatic stay has expired as to the debtor. Thus, the motion
16 insofar as it is directed at the interest of the debtor is moot
17 and will be denied.

18 However, the motion will be granted as to the interest
19 of the trustee.

20 An appropriate order will issue.

21 Dated: August 2, 2007

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23 
24 _____
UNITED STATES BANKRUPTCY JUDGE
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CERTIFICATE OF SERVICE

On the date indicated below, I served a true and correct copy(ies) of the attached document by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed and by depositing said envelope in the United States mail or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's Office.

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Dated: 8/3/07


Deputy Clerk